

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

DEFENDANT'S NOTICE OF REMOVAL

Defendant Integrity Home Care, Inc. (“Integrity” or “Defendant”), by and through counsel, and subject to all of its defenses, including Rule 12 defenses, files this Notice of Removal, hereby removing this case from The Circuit Court of Boone County, Missouri, to the United States District Court for the Western District of Missouri, Central Division, and respectfully shows the Court the following:

A. State Court Action

This action was originally filed by plaintiff Carole Ames (“Plaintiff”) against Integrity on December 7, 2018, in The Circuit Court of Boone County, Missouri, Case No. 18BA-CV05030. Plaintiff claims she was subjected to disparate treatment and retaliation in violation of RSMo. § 213.111 in Counts I and II, interference with her alleged rights under the Family Medical Leave Act, 29 U.S.C. § 2601 *et seq.*, (“FMLA”) in Count III, discrimination in violation of the FMLA in Count IV, retaliation in violation of the FMLA in Count V, and Wrongful Discharge in Count VI. (See Plaintiff’s Petition, contained in the state court file attached hereto as Exhibit A). Integrity was served with Plaintiff’s Petition on December 20, 2018. Integrity has not yet filed an Answer or other responsive pleading.

B. Federal Question Jurisdiction

This action is removable under 28 U.S.C § 1331. Section 1331 provides that the district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 1331.

(a) The Action Arises Under the Laws of the United States

Plaintiff's action arises under the laws of the United States. Plaintiff alleges that Integrity is an FMLA employer and she is an FMLA employee under 29 U.S.C. §§ 2611(4)(A)(i) and 26119(2)(A), that Integrity interfered with her right to take leave pursuant to the FMLA (29 U.S.C. § 2601 *et seq.*), that she engaged in activity protected by the FMLA and sustained damage, and that Integrity allegedly discharged Plaintiff due to her use of FMLA leave, among other alleged FMLA violations. Since Plaintiff purports to have an action under the FMLA, this Court has original jurisdiction over Plaintiff's civil action because it arises under a federal law of the United States.

(b) Supplemental Jurisdiction Exists Over Plaintiff's State Law Claims

This Court also has supplemental jurisdiction pursuant to 28 U.S.C. § 1337 over Plaintiff's purported state law claims under the Missouri Human Rights Act, § 213.010 *et seq.*, RSMo., as well as her alleged state common law claim for wrongful discharge. The state law claims are inextricably related to Plaintiff's claim brought under the FMLA in that they form part of the same case or controversy and because the state law claims arise from the same inclusive operative facts that give rise to the claims that are subject to the original jurisdiction of this Court.

C. Timeliness of Removal

Defendant received the summons and Plaintiff's Petition on December 20, 2018. Defendant is hereby filing its Notice of Removal within thirty (30) days of the date of Defendant's receipt of

Plaintiff's Petition alleging the federal question issues discussed above. This Notice of Removal is therefore timely filed pursuant to 28 U.S.C. § 1446(b).

D. Venue

Venue lies in the United States District Court for the Western District of Missouri, Central Division, pursuant to 28 U.S.C. §§ 1441 and 1391, because the state court action was filed in this district and this is the district in which the alleged action arose.

E. State Court Documents Attached

Pursuant to the requirements of 28 U.S.C. § 1446(a), a docket sheet and copies of the documents filed in The Circuit Court of Boone County, Missouri, Case No. 18BA-CV05030, are attached as Exhibit A.

Contemporaneously filed herewith, defendant has given Plaintiff written Notice of the filing of this Notice of Removal as required by 28 U.S.C. § 1446(d). A copy of the Notice is attached as Exhibit B. Also, pursuant to the requirements of 28 U.S.C. § 1446(d), promptly after filing this Notice of Removal, defendant will file this Notice with the Clerk of the Circuit Court of Boone County, Missouri. A copy of that Notice is attached hereto as Exhibit C.

WHEREFORE, Defendant, without waiving any defenses to the claims asserted by Plaintiff, including without conceding that Plaintiff has pleaded claims upon which relief can be granted, and without admitting that Plaintiff is entitled to any monetary or equitable relief whatsoever (or that the damages she seeks may be properly sought), hereby incorporates by reference all defenses, including without limitation, substantive and procedural defenses, which may be asserted in its Answers, Defenses, or other responsive pleadings to be filed in this action, and prays that the United States District Court for the Western District of Missouri, Central

Division, accepts this Notice of Removal, assumes jurisdiction of this cause, and that the Court issues such further orders and processes as may be necessary.

Respectfully submitted,

BAIRD LIGHTNER MILLSAP P.C.

By /s/ *Tina G. Fowler*
Tina G. Fowler
Missouri Bar No. 48522
tfowler@blmlawyers.com

Rachel A. Riso
Missouri Bar No. 57145
rrioso@blmlawyers.com

1901C South Ventura
Springfield, Missouri 65804
Telephone: (417) 887-0133
Facsimile (417)887-8740
Attorneys for Defendant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 18th day of January, 2019, I electronically filed the above and foregoing document using the Court's e-filing system which sent notification to the following:

Andre E. Townsel, Mo Bar # 44639
TOWNSEL LAW FIRM
1701 East Woodfield Road, Suite 900
Schaumburg, IL 60173
(312) 772 5850
(312) 278 0070
Attorney for Plaintiff

/s/ Tina G. Fowler

Tina G. Fowler